

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Cody	Team: Team # 3	CCRB Case #: 201003603	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/05/2009 10:30 PM	Location of Incident: § 87(2)(b)	Precinct: 28	18 Mo. SOL 2/5/2011	EO SOL 2/5/2011	
Date/Time CV Reported Thu, 03/18/2010 11:54 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/18/2010 11:54 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Flavio Rodriguez	00806	924407	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Cortney Allen	17212	921114	028 PCT
2. SGT Robert Crespo	03532	932499	028 PCT
3. POM Edmund Rumman	31806	931117	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Flavio Rodriguez	Discourtesy: Sgt. Flavio Rodriguez spoke obscenely to § 87(2)(b)	§ 87(2)(b)
B.SGT Flavio Rodriguez	Force: Sgt. Flavio Rodriguez tightly handcuffed § 87(2)(b)	§ 87(2)(b)
C.SGT Flavio Rodriguez	Abuse: Sgt. Flavio Rodriguez did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On March 18, 2010, § 87(2)(b) filed this complaint with the CCRB via phone. He stated that on August 5, 2009, at approximately 10:30pm, in the vicinity of § 87(2)(b) in Manhattan, he was riding his bicycle on a sidewalk when Sgt. Flavio Rodriguez and Officer Cortney Allen stopped him. The following allegations resulted from the officers' actions:

Allegation A) Discourtesy: Sgt. Flavio Rodriguez spoke obscenely to § 87(2)(b)

Allegation B) Force: Sgt. Flavio Rodriguez tightened § 87(2)(b) **s**
handcuffs.

Allegation C) Abuse of Authority: Sgt. Flavio Rodriguez did not obtain medical
treatment for § 87(2)(b)
§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Results of Investigation

Civilian Statement(s)

Complainant/Victim: § 87(2)(b)

Medical Records

§ 87(2)(b) admitted himself to § 87(2)(b) on § 87(2)(b). He told hospital personnel that he punched his wall with his right hand two to three days ago, and it has been painful since then. § 87(2)(b) complained that police officers placed handcuffs on him too tightly and they hurt his left thumb and caused his wrist to swell.

Notice of Claim

§ 87(2)(b) filed a Notice of Claim on § 87(2)(b). He stated he was falsely arrested and assaulted by officers. There were no other details provided.

CCRB Statement

On March 18, 2010, § 87(2)(b) filed this complaint with the CCRB (2A-B). § 87(2)(g) He indicated that he filed this complaint seven months after the incident date because his lawyer told him to file a CCRB complaint.

On March 23, 2010, § 87(2)(b) was interviewed at the CCRB (Enc. 3A-E). § 87(2)(b) stated that on August 5, 2009, at approximately 10:30pm in the vicinity of § 87(2)(b) in Manhattan, he had exited his apartment building to go to a nearby store. He rode his bike towards § 87(2)(b) and § 87(2)(b). As he reached the corner, he simultaneously rode his bike onto the sidewalk while dismounting. His friend § 87(2)(b) (he does not know her last

name) called out to him. § 87(2)(b) walked towards her with his bike and conversed with her for about five minutes when a marked car stopped by nearby. § 87(2)(b) leaned to his right to see who was in the car because he was familiar with some of the officers at the 28th precinct. Inside of the vehicle were Sgt. Rodriguez (Hispanic male, 5'7"-8", medium build, bald, light brown complexion, his shield had 806 on it) and Officer Allen (black male, 6'2"-3", slender, bald, light brown complexion).

Sgt. Rodriguez said, "What the fuck are you looking at?" § 87(2)(b) replied, "Not you officer." § 87(2)(b) and § 87(2)(b) resumed talking. § 87(2)(b) said, "That's crazy. See how they just talk to people?" Sgt. Rodriguez replied to § 87(2)(b) "So you think you're some kind of comedian?" Sgt. Rodriguez then exited the vehicle and said, "Come over here." § 87(2)(b) asked why and Sgt. Rodriguez replied, "Get the fuck over here."

Sgt. Rodriguez tried to grab § 87(2)(b) § 87(2)(b) moved his hand and kept asking why Sgt. Rodriguez was trying to touch him. Sgt. Rodriguez tried to grab him again and § 87(2)(b) moved his hand again. Finally, Sgt. Rodriguez grabbed his arm and put § 87(2)(b) against the wall such that his left shoulder was against the wall. Sgt. Rodriguez tried to get § 87(2)(b)'s right hand behind his back in order to handcuff him. They tussled a bit because Sgt. Rodriguez was trying to search and handcuff him, and § 87(2)(b) was struggling because he was confused as to why he had been stopped. At some point during the tussle, Sgt. Rodriguez took § 87(2)(b)'s thumb and twisted it. § 87(2)(b) began yelling. Sgt. Rodriguez then began twisting § 87(2)(b)'s arm to get it behind his back. He called to his partner, Officer Allen, who exited the police vehicle and helped Sgt. Rodriguez handcuff § 87(2)(b) by yanking him around. As soon as he was cuffed, § 87(2)(b) realized something was wrong with his right hand. He asked the officers to loosen the handcuffs but they wouldn't and placed him in the patrol car.

When they arrived at the precinct, Sgt. Rodriguez walked § 87(2)(b) towards the building while holding him by the chain on the handcuffs. Sgt. Rodriguez stopped him suddenly. § 87(2)(b) turned around and saw Officer Allen looking in the backseat with a flashlight. § 87(2)(b) asked, "What are you looking for?" § 87(2)(b) thinking that PO Allen is planting something in the car like a bag of weed. § 87(2)(b) began asking what Officer Allen was doing. Sgt. Rodriguez replied, "Shut up. Why you talk so much?" He pulled § 87(2)(b)'s handcuffs up thereby creating pain. § 87(2)(b) began yelling. Sgt. Rodriguez said, "Shut up. You scream like a bitch or something." Sgt. Rodriguez then squeezed the cuffs until they could not click anymore. According to the intake call, § 87(2)(b) said he got nervous when they started searching the vehicle and he decided to walk towards the precinct when Sgt. Rodriguez grabbed § 87(2)(b) and pulled him backwards by his handcuffs. § 87(2)(b) then continued trying to walk and that was when Sgt. Rodriguez tightened the handcuffs.

After that, § 87(2)(b) tried to pull himself into the precinct because no officer had come out to check on what was happening even though he had been yelling. Sgt. Rodriguez pulled him back by the handcuffs. § 87(2)(b) yelled repeatedly, "My hand."

Once inside the precinct, he began asking any officer in sight to loosen his right cuff because there was something wrong with his hand. No one responded. The officers escorted § 87(2)(b) to the desk sergeant and his information was taken. The arresting officer, Sgt. Rodriguez, stepped away. While his information was being taken, § 87(2)(b) asked various officers to loosen his right handcuff. The desk sergeant told § 87(2)(b) to be patient.

After this, the officers left him there for about five minutes. They returned and took him to the pen. During this time, § 87(2)(b) requested medical attention. He asked for an ambulance and indicated that his arm was in pain. Then, Sgt. Rodriguez came to the door, closed it, and walked away. He later returned with § 87(2)(b)'s belongings and dropped them on the floor. Sgt. Rodriguez then walked out.

§ 87(2)(b) was given two summonses: § 87(2)(b). § 87(2)(b) was released from 28th precinct and walked directly to § 87(2)(b) where he was diagnosed with a fracture.

Attempts to Contact Civilians

§ 87(2)(b) provided a number for § 87(2)(b) but did not know her last name. She was called three times between May 26, 2010, and August 10, 2010. Her number was disconnected the first two times and the third time a female picked up who said she was not § 87(2)(b).

NYPD Statement(s):

Subject Officer: SGT. FLAVIO RODRIGUEZ

- *Sgt. Rodriguez is a Hispanic male, 5'6", 170 pounds with a bald head and brown eyes.*
- *On August 5, 2009, he was working in uniform from 2:50pm until 11:47pm with Officer Allen doing sector patrol in a marked vehicle.*

Memo-Book

Sgt. Rodriguez did not have any memo-book entries regarding this incident (Enc. 6A-B).

CCRB Statement

Sgt. Flavio Rodriguez, of the 28th Precinct, was interviewed at the CCRB on July 29, 2010 (Enc. 7A-B). Sgt. Rodriguez did not recall this incident. Sgt. Rodriguez was shown the command log with § 87(2)(b)'s entry that indicated he was the supervising officer who approved the entry, but Sgt. Rodriguez still did not recall the incident, saying it happened nearly a year ago. However, Sgt. Rodriguez acknowledged that if he approved the arrest then he was involved with the arrest of § 87(2)(b). Sgt. Rodriguez said if they had had to use physical force on § 87(2)(b) he would have recalled the incident. However, he did not recall whether they used force to take § 87(2)(b) into custody. He never directed any profanity at § 87(2)(b) because he does not use profanity. Sgt. Rodriguez never tightened § 87(2)(b)'s handcuffs at any point. Sgt. Rodriguez only makes memo-book entries for something "major" and would not make a memo-book entry for the issuance of a summons. Sgt. Rodriguez was given a brief description of the incident, but still did not recall it.

Witness Officer: PO CORTNEY ALLEN

- *Officer Allen is a black male, 6'1", 195 pounds with a bald head and brown eyes.*
- *On August 5, 2009, he was working in uniform from 5:30pm until 2:05am with Sgt. Flavio Rodriguez doing patrol in a marked vehicle.*

Memo-Book

Officer Allen's memo-book stated, "2255: Pickup for § 87(2)(b) in f/o § 87(2)(b) 2 C-summonses issued."

CCRB Statement

Officer Cortney Allen, of the 28th Precinct, was interviewed at the CCRB on August 4, 2010 (Enc. 5A-B). Officer Allen initially provided testimony for one incident, but upon reviewing his memo-book realized he provided testimony for a different incident § 87(2)(b).

Officer Allen stated he could not clearly recall the incident in question, but believed they observed § 87(2)(b) riding his bicycle on a sidewalk. He could not recall why § 87(2)(b) was issued a § 87(2)(b) summons, but believed § 87(2)(b) and the officers “exchanged” some words or § 87(2)(b) began acting up upon hearing he was going to receive a summons. He said that § 87(2)(b) was brought the precinct but he did not recall who handcuffed him or how they handcuffed him. Officer Allen said they never used any profanity towards § 87(2)(b) at any point. Officer Allen said that Sgt. Rodriguez never tightened § 87(2)(b)'s handcuffs and he never heard § 87(2)(b) yelling outside the precinct. Once at the precinct, Officer Allen issued two summonses to § 87(2)(b) he believed one was for § 87(2)(b) and the other was for § 87(2)(b). § 87(2)(b) was then released. § 87(2)(b) did not request to go to the hospital.

Witness Officer: PO EDMUND RUMMAN

- *Officer Rumman is a white male, 5'10", 170 pounds with black hair and brown eyes.*
- *On August 5, 2009, Officer Rumman worked in uniform from 3:00pm until 11:23pm as the cell attendant.*

CCRB Statement

On August 13, 2010, Officer Edmund Rumman was interviewed at the CCRB (Enc. 10A-B). He stated on the incident date he was working in the second set of cells where prisoners, once they are processed, are brought back to him for transport to Central Booking. Upon reviewing the holding pen roster, he indicated that since § 87(2)(b) was issued a summons he would most likely have had no interaction with him. Officer Rumman never recalled any prisoners complaining of any pain or requesting medical treatment. He did not recall seeing § 87(2)(b).

Witness Officer: SGT. ROBERT CRESPO

- *Sgt. Crespo is a white male, 5'7", 215 pounds with black hair and blue eyes.*
- *On August 5, 2010, Sgt. Crespo worked in uniform from 2:50pm until 11:47pm as the desk officer.*

Memo-Book

Sgt. Crespo did not have any memo-book entry regarding this incident (Enc. 8A-B).

CCRB Statement

On August 13, 2010, Sgt. Robert Crespo was interviewed at the CCRB (Enc. 9A-B). He stated he did not recall this incident. He knows both Sgt. Rodriguez and Officer Allen and knows they used to work together. He was given a description of the incident but he did not recall § 87(2)(b). He did say that if someone requested medical attention an ambulance would be requested and that person would be transported to the hospital, as that is the procedure. Sgt. Crespo said it was possible he walked away for a break while § 87(2)(b) was brought to the desk. Sgt. Crespo stated that he can see into the cells from his desk but he did not recall Sgt. Rodriguez or Officer Allen having any problems with any prisoners that night. He said many prisoners do however complain about handcuffs being too tight.

Medical Records

§ 87(2)(b) admitted himself to § 87(2)(b) on § 87(2)(b) (Enc. 11A-J1). § 87(2)(b) was given X-rays of his arms and was given a splint for a scapholunate disassociated and ulnar styloid injury to his right wrist. He was positive for a wrist fracture. The report noted that this fracture was likely produced from his action of punching a

wall. The report indicated that he had an older fracture on his left wrist. The report noted swelling to his wrists.

NYPD Document(s)

The command log is enclosed and notes that § 87(2)(b) was released with two summonses (Enc. 13A-C). It also notes Sgt. Rodriguez as the officer who supervised the arrest of § 87(2)(b). The holding pen roster is enclosed (Enc. 12A-C). The roll call lists Sgt. Crespo working as the desk officer and Officer Rumman as the cell attendant (Enc. 14A-J).

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b) claiming he was assaulted by officers and falsely arrested and seeking an unknown sum as redress (Enc. 16A-C).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (Enc. 1A-C).

Subject Officer(s) CCRB History

- Sgt. Flavio Rodriguez has been a member of the service for 11 years and there are no substantiated CCRB allegations against him (Enc. 1A-C).

Conclusion

Identification of Subject Officer(s)

§ 87(2)(b) indicated that a sergeant whose shield number matched Sgt. Rodriguez's shield number, was the officer he interacted with. Sgt. Rodriguez acknowledged that since he was the supervisor who authorized this arrest, he was involved in this incident. Officer Allen, who issued both summonses to § 87(2)(b) indicated that he was on patrol with Sgt. Rodriguez. § 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(g)

Allegation A) Discourtesy: Sgt. Flavio Rodriguez spoke obscenely to § 87(2)(b)

§ 87(2)(b)

Sgt. Rodriguez stated he did not recall this incident while Officer Allen indicated he recalled very little of it. Officer Allen initially provided testimony regarding a different but similar incident that occurred that day, but upon reviewing his memo-book, said that the stopped § 87(2)(b) because he was riding his bicycle on his sidewalk but he was not sure why a

§ 87(2)(b) summons was issued. § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation B) Force: Sgt. Flavio Rodriguez tightened § 87(2)(b) **s**
handcuffs.

§ 87(2)(b) alleged that Sgt. Rodriguez tightened his handcuffs on the way inside the precinct. § 87(2)(g)

§ 87(2)(b)
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§ 87(2)(b) .

Allegation C) Abuse of Authority: Sgt. Flavio Rodriguez did not obtain medical
treatment for § 87(2)(b)

§ 87(2)(b) stated that he asked Sgt. Rodriguez to go to the hospital, to which Sgt. Rodriguez ignored him. Both Sgt. Crespo, the desk officer that night, and Officer Rumman, the cell attendant, were interviewed, but neither recalled § 87(2)(b) Sgt. Rodriguez and Officer Allen denied that § 87(2)(b) requested medical attention. § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b) .

§ 87(2)(g), § 87(4-b)

§ 87(2)(b)
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Team: _____

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Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date